

14 CV 9707

JUDGE CAPRONI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ARTIS LLC, :

Plaintiff, :

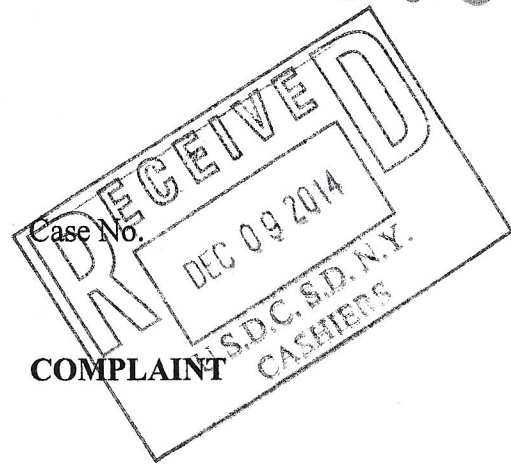
-against- :

STW ENTERPRISE, INC. D/B/A/ CAILYN :

COSMETICS, :

Defendant. :

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**COMPLAINT**

**Jury Trial Demanded**

Plaintiff Artis LLC (“Artis” or “Plaintiff), by and through its undersigned counsel, Cozen O’Connor, for its Complaint against Defendant STW Enterprise, Inc. d/b/a Cailyn Cosmetics (“STW” or “Defendant”) alleges as follows:

**PRELIMINARY STATEMENT**

This is an action for infringement of Artis’ United States Patent No. D699,041 under the Patent Act, 35 U.S.C. § 271, based on Defendant's unauthorized manufacture, use, importation, offer for sale, and/or sale of certain infringing cosmetic brushes in the United States.

**PARTIES**

1. Artis is a New Jersey limited liability company with a principal place of business located at 299 Pavonia Avenue, Jersey City, New Jersey 07302.
2. Upon information and belief, Defendant is a California corporation with a principal place of business located at 10450 Pioneer Blvd., Santa Fe Springs, California 90670.

### **JURISDICTION AND VENUE**

3. This is an action for patent infringement in violation of the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

4. This court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action involves claims arising under the patent laws of the United States.

5. This Court has personal jurisdiction over Defendant because, among other reasons, upon information and belief, it has derived revenue from the sales of products in this District, it has systematic and continuous business contacts with this District and it has directly committed acts of patent infringement against the asserted patent referenced below in this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1400(b) because, among other reasons, Defendant has committed acts of patent infringement in this District and because Defendant is subject to personal jurisdiction in this District.

### **FACTS**

7. For the last approximately six years, Artis has been designing, manufacturing and selling a wide variety of unique and proprietary cosmetic brushes.


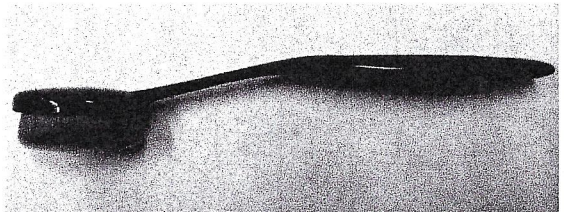
8. In or about January 2013, Plaintiff created and launched a line of cosmetic brushes, called the “Elite Collection,” that have a unique and ornamental design. Artis’ cosmetic brushes have been featured in numerous publications including Harper’s Bazaar and Allure.

9. Plaintiff’s innovative designs for its cosmetic brushes are protected by various intellectual property rights including a design patent issued by the United States Patent and Trademark Office (the “USPTO”).

10. On or about February 11, 2014, the USPTO issued U.S. Design Patent No. D699,041 (the “’041 Patent”) entitled “Cosmetic Brush,” claiming an ornamental design for a cosmetic brush. Artis is the owner by assignment of all right, title and interest in the ‘041 Patent. A true and correct copy of the ‘041 Patent is attached as Exhibit A to this Complaint and is incorporated herein.

11. Defendant has and continues to infringe the ‘041 Patent by making, using, selling and/or offering for sale a line of cosmetic brushes under the brand name “O! WOW BRUSH” (hereinafter the “Infringing Brushes”) in the United States as well as importing into the United States Infringing Brushes that embody or use the inventions claimed in the ‘041 Patent.

12. By way of example, a side-by-side comparison of an Infringing Brush and Figure 3 of the ‘041 Patent is shown below:

’041 Patent Drawing	Image of Infringing Brush
 <p style="text-align: right;">FIG. 3</p>	

13. Upon information and belief, Defendant sells the Infringing Brushes directly to consumers via its Internet website located at [cailyncosmetics.com](http://cailyncosmetics.com) as well as through national retailers such as amazon.com.

14. Defendant has known of the existence of the ‘041 Patent, and its acts of infringement have been willful and in disregard for the ‘041 Patent, without any reasonable basis for believing that it had a right to engage in the infringing conduct.



15. Specifically, on or about August 8, 2014, the manufacturer of Artis' cosmetic brush products, with Artis' consent, sent a letter to Defendant alleging that Defendant is infringing Artis' patent rights.

16. On or about August 19, 2014, counsel for Defendant, responding to the August 8, 2014 letter on Defendant's behalf, requested a copy of the relevant patent.

17. On or about September 5, 2014, counsel for Artis responded directly to Defendant's counsel's August 9, 2014 letter by enclosing a copy of the '041 Patent and again demanding that Defendant cease and desist its acts of infringement. Counsel for Defendant did not respond to the September 5, 2014 letter.

18. On or about September 22, 2014, counsel for Artis sent an email to Defendant's counsel requesting a response to the September 5, 2014 letter. Counsel for Defendant did not respond to the September 22, 2014 email. As of the date of this Complaint, no substantive response has been received from Defendant or its counsel.

19. In view of the foregoing, and among other reasons, Defendant's infringing conduct has been and continues to be willful.

**COUNT I**  
**(Infringement of U.S. Patent No. D699,041)**

20. Plaintiff repeats and re-alleges Paragraphs 1-19 hereof as if fully set forth herein.

21. Defendant has infringed and continues to infringe the '041 Patent by making, using, selling and/or offering for sell in the United States, or importing into the United States, including in this judicial district, one or more Infringing Brushes identified in this Complaint, which embody the design claimed in the '041 Patent in violation of 35 U.S.C. § 271(a).

22. Defendant's infringement has been, and continues to be knowing, intentional, and willful.